

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 8

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDWARD J. TOWNS

Appeal No. 98-1297
Application No. 08/555,836¹

ON BRIEF

Before ABRAMS, PATE and CRAWFORD, *Administrative Patent Judges*.

ABRAMS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the decision of the examiner finally rejecting claims 1-3, which constitute all of the claims remaining of record in the application, inasmuch as

¹ Application for patent filed November 13, 1995.

Appeal No. 98-1297
Application No. 08/555,836

claims 4 and 5 have been withdrawn as being directed to a non-elected invention.

The appellant's invention is directed to an improvement to a molded threaded closure of the type having a tamper-indicating ring frangibly attached to the lower portion. The subject matter before us on appeal is illustrated by reference to claim 1, which reads as follows:

1. In a molded threaded closure of a type including a planar end wall, an internally threaded cylindrical side wall having an outer cylindrical surface, and a tamper-indicating ring frangibly attached to a lower edge of said side wall, said tamper-indicating ring having a radially inwardly projecting bead on an inner cylindrical surface thereof, the improvement comprising: said outer cylindrical surface of said side wall having a radially outwardly extending bead thereon, said bead including an outer surface and a lower surface, said lower surface including an annular groove therein, said groove being positioned adjacent an upper edge of said tamper-indicating ring, said groove providing space for radial expansion of said tamper-indicating ring during removal of said closure from a male mold element after a molding operation.

THE REFERENCE

The reference relied upon by the examiner to support the final rejection is:

Towns et al. (Towns)	4,697,714	Oct. 6,
1987		

Appeal No. 98-1297
Application No. 08/555,836

THE REJECTION

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Towns.

The rejection is explained in the Examiner's Answer.

The opposing viewpoints of the appellant are set forth in the Brief.

OPINION

In reaching our decision on the issues raised in this appeal, we have carefully assessed the claims, the prior art applied against the claims, and the respective views of the examiner and the appellant as set forth in the Answer and the Briefs. As a result of our review, we have determined that the rejection should not be sustained. Our reasoning in support of this conclusion follows.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of the claimed invention. *See RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.), *cert. dismissed sub*

Appeal No. 98-1297
Application No. 08/555,836

nom., Hazeltine Corp. v. RCA Corp., 468 U.S. 1228 (1984).

According to the examiner, all of the subject matter recited in claim 1 finds correspondence in the molded threaded closure of the embodiment shown in Figures 11 and 12 of Towns. The appellant argues that this is not the case, on the basis that the Towns annular groove does not meet the terms of the claim. We agree with the appellant that this is the case.

Central to our position is what constitutes the "tamper-indicating ring." As described on page 5 of the specification, the appellant's invention includes "[f]rangible bridges 32 [that] interconnect the tamper-indicating ring 13" to the lower edge of sidewall 12 of the closure. The description continues that "ring 13 includes an upper edge 34, and an inner surface 35 forming a tapered annular head 36, as well as an outer surface 37 which meets the inner surface 35 at a lower edge 38." From this, it is our conclusion that the "tamper-indicating ring" recited in claim 1 terminates at an upper edge 34 and does not include the frangible attachment means. Therefore, we interpret the limitation in the claim of "said groove providing space for radial expansion of said tamper-indicating ring" to require that the groove be so

Appeal No. 98-1297
Application No. 08/555,836

positioned as to accommodate outward movement of the body of the ring, which does not include the frangible attachment means.

The groove disclosed in Figures 11 and 12 of Towns is located on the lower edge of the cap portion of the closure, adjacent to but above (as shown) the frangible attachment means. The reference is silent as to the function of the groove, other than the fact that it can be discerned from Figure 12 that it receives the upper portion of exterior sleeve member 150. This groove might inherently provide space for radial expansion of some portion of the cap. However, even assuming, *arguendo*, that the groove is "adjacent" the tamper-indicating ring, in the absence of explanation to the contrary, it appears to us that it is not so positioned as to provide space for radial expansion of the ring, from which it is longitudinally spaced. The reference therefore does not disclose all of the limitations recited in claim 1, and is not anticipatory thereof.

The rejection is not sustained.

Appeal No. 98-1297
Application No. 08/555,836

The decision of the examiner is reversed.

REVERSED

NEAL E. ABRAMS)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
WILLIAM F. PATE, III)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
MURRIEL E. CRAWFORD)	
Administrative Patent Judge)	

bae

Appeal No. 98-1297
Application No. 08/555,836

Charles E. Temko
Temko and Temko
19 West 44th Street
New York, NY 10036